

IN THE CIRCUIT COURT
SECOND JUDICIAL CIRCUIT
COUNTY OF ADAIR, STATE OF MISSOURI

J [REDACTED] R [REDACTED] I [REDACTED] a minor,
by and through his Mother and Next
Friend, CRYSTAL DAWN LEE,
and CRYSTAL DAWN LEE and
ROBERT LEE, individually,

Plaintiffs,

vs.

RALPH BOLING, D.O.,
KIRKSVILLE HOSPITAL
CORPORATION, d/b/a NORTHEAST
REGIONAL MEDICAL CENTER,

Defendants.

Cause No.: 07AR-CV00034

JURY TRIAL DEMANDED

FILED
APR 12 2007
LINDA DECKER
CLERK
ADAIR COUNTY, MO

PETITION

COUNT I

COME NOW the Plaintiffs, J [REDACTED] R [REDACTED] I [REDACTED] a minor, by and through his Mother and Next Friend, CRYSTAL DAWN LEE, and CRYSTAL DAWN LEE and ROBERT LEE, individually, by and through their attorneys, and for Count I of the causes of action under Chapter 538.205 *et seq.*, R.S. Mo. (2005), against Defendant, RALPH BOLING, D.O., and state:

1. That Plaintiff, J [REDACTED] R [REDACTED] I [REDACTED] (hereinafter "Jaxson"), a citizen and resident of the State of Missouri, is a minor under the age of fourteen (14) years and brings this suit by his duly appointed, qualified and acting next friend, Crystal Dawn Lee, a citizen and resident of the State of Missouri, who has been duly appointed to act as such by the Circuit Court, Second Judicial Circuit, County of Adair, State of Missouri.

2. Crystal Dawn Lee is the parent and mother of J [REDACTED] R [REDACTED] L [REDACTED] and is a citizen and resident of the State of Missouri.

3. Robert Lee is the parent and father of J [REDACTED] R [REDACTED] and is a citizen and resident of the State of Missouri.

4. That as of April 19, 2005, and at all times relevant herein, defendant Ralph Boling, D.O. (hereinafter "Boling"), was a physician duly licensed to practice his profession under the laws of the State of Missouri and was engaged in the practice of his profession in the County of Adair, State of Missouri, and was employed by and/or otherwise affiliated with Defendants, Kirksville Hospital Corporation, d/b/a Northeast Regional Medical Center and/or Northeast Regional Medical Center located at 315 South Osteopathy, P.O. Box C8502, Kirksville, Missouri, 63501. Defendant Boling is a citizen and resident of the State of Missouri.

5. That as of April 19, 2005, defendant Boling, in his professional capacity had under his care, and attended and treated, J [REDACTED]

6. That on or about April 19, 2005, and at all times relevant herein, there was a duty on the part of defendant Boling to diagnose, care and treat J [REDACTED] using that degree of skill and learning ordinarily used under the same or similar circumstances by the members of defendant's profession.

7. That after assuming the care and treatment of J [REDACTED], defendant Boling was then and there guilty of one or more of the following wrongful acts and/or omissions such being a departure, or departures from prevailing professional standard(s) of care, and was negligent thereby in that he:

- (a) Failed to render needed medical services to J [REDACTED] including proper delivery maneuver(s) and/or properly execute said delivery maneuver(s), undertake ultimate and/or gentle traction in the delivery process; and/or
- (b) Failed to render medical services consistent with the medical requirements of J [REDACTED] during delivery including proper delivery maneuver(s) and/or properly execute said delivery maneuver(s), undertake ultimate and/or gentle traction in the delivery process, and/or
- (c) Failed to intervene on behalf of J [REDACTED] to see that proper medical care and attention was being given to him including proper delivery maneuver(s) and/or properly execute said delivery maneuver(s), undertake ultimate and/or gentle traction in the delivery process, and/or
- (d) Failed to recognize the macrosomic nature of J [REDACTED] and/or failed to take steps to protect against shoulder dystocia and/or failed to take adequate measures to protect J [REDACTED] from injury during birth;
- (e) Failed to take due cognizance of J [REDACTED]'s condition of ill-being during delivery when the fetal presentation was indicative of a macrosomic fetus and/or problems with shoulder dystocia; and/or
- (f) Applied improper and/or excessive force and/or traction during the delivery of J [REDACTED] R [REDACTED] L [REDACTED] causing injury to him; and/or
- (g) Failed to undertake gentle traction during the delivery process.

8. As a direct and proximate result of one or more of the foregoing wrongful acts and/or omissions of defendant Boling, J [REDACTED] was then and there injured internally and externally, in that he suffered severe and permanent injuries to his nervous system and other systems of his body, including, at the very least, a permanent brachial plexus injury; that he has suffered and will continue to suffer great and prolonged physical and mental pain and suffering; that he and/or his parents, Crystal Dawn Lee and Robert Lee, became liable for great sums of money for hospital and medical care and treatment in the past and will reasonably become liable for great sums of money for hospital and medical care and treatment in the future; that he will reasonably incur future medical care and treatment as a result of these injuries; that his future earning capacity has been

substantially diminished thereby; and, that he has sustained significant disfigurement, as well as incurring other damages.

9. Plaintiffs' attorneys have consulted with a health care professional who is knowledgeable in the relevant issues involved herein and have concluded on the basis of the reviewing health care professional's review and consultation that Plaintiff has a meritorious cause of action as to defendant Boling and have attached an affidavit of Plaintiffs' counsel hereto pursuant to §538.225 R.S.Mo. as EXHIBIT A.

WHEREFORE, the Plaintiffs, J [REDACTED] R [REDACTED] L [REDACTED], a minor, by and through his Mother and Next Friend, CRYSTAL DAWN LEE, and CRYSTAL DAWN LEE and ROBERT LEE, individually, pray judgment against the Defendant, RALPH BOLING, D.O., in an amount in excess of TWENTY-FIVE THOUSAND DOLLARS (\$25,000.00), for costs of suit, and any other relief this Court deems appropriate.

COUNT II

COME NOW the Plaintiffs, CRYSTAL DAWN LEE and ROBERT LEE, by and through their attorneys, and for Count II of the causes of action against Defendant, RALPH BOLING, D.O., and state:

1-8. That the Plaintiff, J [REDACTED] R [REDACTED] L [REDACTED] repeats and realleges each and every allegation of Paragraphs 1-8 of Count I, as Paragraphs 1-8 of Count II.

9. That Crystal Dawn Lee and Robert Lee are the parents of J [REDACTED] R [REDACTED] L [REDACTED] a minor, and are both citizens and residents of the State of Missouri.

10. That as a direct and proximate result of the injuries to J [REDACTED] R [REDACTED] L [REDACTED] complained of herein, Plaintiffs, Crystal Dawn Lee and Robert Lee have been deprived of

the comforts of society, companionship, love, affection, support and valuable services, which their son, J [REDACTED] R [REDACTED] L [REDACTED] would have contributed and performed.

11. That Plaintiffs, Crystal Dawn Lee and Robert Lee have incurred substantial medical bills for the care and treatment of their minor son, J [REDACTED] R [REDACTED] L [REDACTED] proximately related to the allegations alleged herein and are reasonably certain to incur substantial medical expense in the care and treatment of J [REDACTED] R [REDACTED] L [REDACTED] in the future.

12. Plaintiffs' attorneys have consulted with a health care professional who is knowledgeable in the relevant issues involved herein and have concluded on the basis of the reviewing health care professional's review and consultation that Plaintiff has a meritorious cause of action as to defendant Boling and have attached an affidavit of Plaintiffs' counsel hereto pursuant to §538.225 R.S.Mo. as EXHIBIT A.

WHEREFORE, Plaintiffs, CRYSTAL DAWN LEE and ROBERT LEE, pray for judgment against the Defendants, RALPH BOLING, D.O., in an amount in excess of TWENTY-FIVE THOUSAND DOLLARS (\$25,000.00), for costs of suit, and any other relief this Court deems appropriate.

COUNT III

COME NOW the Plaintiffs, J [REDACTED] R [REDACTED] L [REDACTED], a minor, by and through his Mother and Next Friend, CRYSTAL DAWN LEE, and CRYSTAL DAWN LEE and ROBERT LEE, individually, and by and through their attorneys, and for Count III of the causes of action under Chapter 538.205 et seq., R.S. Mo. (2005), against Defendant, KIRKSVILLE HOSPITAL CORPORATION, d/b/a NORTHEAST REGIONAL MEDICAL CENTER, and state:

1. That Plaintiff, J [REDACTED] R [REDACTED] L [REDACTED] (hereinafter "Jaxson"), a citizen and resident of the State of Missouri, is a minor under the age of fourteen (14) years and brings this suit by his duly appointed, qualified and acting next friend, Crystal Dawn Lee, a citizen and resident of the State of Missouri, who has been duly appointed to act as such by the Circuit Court, Second Judicial Circuit, County of Adair, State of Missouri.

2. Crystal Dawn Lee is the parent and mother of J [REDACTED] R [REDACTED] L [REDACTED] and is a citizen and resident of the State of Missouri.

3. Robert Lee is the parent and father of J [REDACTED] R [REDACTED] L [REDACTED] and is a citizen and resident of the State of Missouri.

4. That as of April 19, 2005, and at all times relevant herein, Defendant, Kirksville Hospital Corporation, d/b/a Northeast Regional Medical Center (hereinafter "Kirksville Hospital"), was engaged in the business of offering hospital services and facilities in the County of Adair, State of Missouri, located at 315 South Osteopathy, P.O. Box C8502, Kirksville, Missouri, 63501, and that it engaged on its staff various physicians, residents, specialists, nurses, and other personnel, including defendant Boling.

5. Kirksville Hospital Corporation is a Missouri corporation with its principal place of business in the State of Tennessee and at all times relevant herein was doing business in the State of Missouri, County of Adair, as Northeast Regional Medical Center.

6. That as of April 19, 2005, Defendant, Kirksville Hospital, held itself out and otherwise informed the public and more particularly in the instance of J [REDACTED] R [REDACTED]

It is that it possessed the requisite skill, competence, know-how, facilities, personnel, equipment, and information to properly care for and treat J. [REDACTED] R. [REDACTED] L. [REDACTED]

7. That on or about April 19, 2005, J. [REDACTED] R. [REDACTED] L. [REDACTED] entered the facilities of Kirksville Hospital and entrusted himself entirely to the care of the Defendant hospital and its duly authorized agents, servants, physicians, specialists and employees, including but not limited to Ralph Boling, D.O.

8. That at all times relevant herein, there was a duty on the part of Kirksville Hospital, by and through its duly authorized agents, servants, physicians, specialists and employees, including but not limited to Ralph Boling, D.O., to use that degree of skill and learning ordinarily used under the same or similar circumstances by the members of defendant's profession, to render hospital and medical services consistent with the medical requirements of the patients therein and not to negligently cause injury to said patients, including but not limited to J. [REDACTED] R. [REDACTED] L. [REDACTED]

9. That as of April 19, 2005, and at all times relevant herein, Ralph Boling, D.O., was a physician duly licensed to practice his profession under the laws of the State of Missouri and was engaged in the practice of his profession in the County of Adair, State of Missouri, was on the staff of Kirksville Hospital and was the agent, servant and/or employee of defendant Kirksville Hospital.

10. That after assuming the care and treatment of J. [REDACTED] R. [REDACTED] L. [REDACTED], the Defendant, Kirksville Hospital, by and through its duly authorized agent, servant, physician and employee, Ralph Boling, D.O., was then and there guilty of one or more of the following wrongful acts and/or omissions such being a departure, or departures from prevailing professional standard(s) of care, and was negligent thereby in that it:

- (a) Failed to render needed medical services to J [REDACTED] including proper delivery maneuver(s) and/or properly execute said delivery maneuver(s), undertake ultimate and/or gentle traction in the delivery process; and/or
- (b) Failed to render medical services consistent with the medical requirements of J [REDACTED] during delivery including proper delivery maneuver(s) and/or properly execute said delivery maneuver(s), undertake ultimate and/or gentle traction in the delivery process, and/or
- (c) Failed to intervene on behalf of [REDACTED] to see that proper medical care and attention was being given to him including proper delivery maneuver(s) and/or properly execute said delivery maneuver(s), undertake ultimate and/or gentle traction in the delivery process, and/or
- (d) Failed to recognize the macrosomic nature of J [REDACTED] and/or failed to take steps to protect against shoulder dystocia and/or failed to take adequate measures to protect J [REDACTED] from injury during birth;
- (e) Failed to take due cognizance of J [REDACTED]'s condition of ill-being during delivery when the fetal presentation was indicative of a macrosomic fetus and/or problems with shoulder dystocia; and/or
- (f) Applied improper and/or excessive force and/or traction during the delivery of J [REDACTED] R [REDACTED] L [REDACTED] causing injury to him; and/or
- (g) Failed to undertake gentle traction during the delivery process.

11. As a direct and proximate result of one or more of the foregoing wrongful acts and/or omissions of Kirksville Hospital, acting by and through its agent, servant, employee and physician, defendant Boling, J [REDACTED] was then and there injured internally and externally, in that he suffered severe and permanent injuries to his nervous system and other systems of his body, including, at the very least, a permanent brachial plexus injury; that he has suffered and will continue to suffer great and prolonged physical and mental pain and suffering; that he and/or his parents, Crystal Dawn Lee and Robert Lee, became liable for great sums of money for hospital and medical care and treatment in the past and will reasonably become liable for great sums of money for hospital and medical care and treatment in the future; that he will reasonably incur future medical care and

treatment as a result of these injuries; that his future earning capacity has been substantially diminished thereby; and, that he has sustained significant disfigurement, as well as incurring other damages.

12. Plaintiffs' attorneys have consulted with a health care professional who is knowledgeable in the relevant issues involved herein and have concluded on the basis of the reviewing health care professional's review and consultation that Plaintiff has a meritorious cause of action as to defendant Kirksville Hospital and have attached an affidavit of Plaintiffs' counsel hereto pursuant to §538.225 R.S.Mo. as EXHIBIT B.

WHEREFORE, the Plaintiffs, J[REDACTED] R[REDACTED] L[REDACTED], a minor, by and through his Mother and Next Friend, CRYSTAL DAWN LEE, and CRYSTAL DAWN LEE and ROBERT LEE, individually, pray judgment against the Defendant, KIRKSVILLE HOSPITAL CORPORATION, d/b/a NORTHEAST REGIONAL MEDICAL CENTER, in an amount in excess of TWENTY-FIVE THOUSAND DOLLARS (\$25,000.00), for costs of suit, and any other relief this Court deems appropriate.

COUNT IV

COME NOW the Plaintiffs, CRYSTAL DAWN LEE and ROBERT LEE, by and through their attorneys, and for Count IV of the causes of action against Defendant, KIRKSVILLE HOSPITAL CORPORATION, d/b/a NORTHEAST REGIONAL MEDICAL CENTER, and state:

1-11. That the Plaintiff, J[REDACTED] R[REDACTED] L[REDACTED] repeats and realleges each and every allegation of Paragraphs 1-11 of Count III, as Paragraphs 1-11 of Count IV.

12. That Crystal Dawn Lee and Robert Lee are the parents of J[REDACTED] R[REDACTED] L[REDACTED], a minor and are both citizens and residents of the State of Missouri.

13. That as a direct and proximate result of the injuries to J [REDACTED] R [REDACTED] L [REDACTED] complained of herein, Plaintiffs, Crystal Dawn Lee and Robert Lee have been deprived of the comforts of society, companionship, love, affection, support and valuable services, which their son, J [REDACTED] R [REDACTED] L [REDACTED] would have contributed and performed.

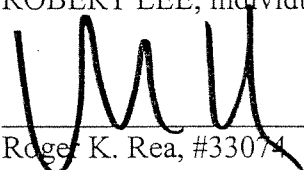
14. That Plaintiffs, Crystal Dawn Lee and Robert Lee have incurred substantial medical bills for the care and treatment of their minor son, J [REDACTED] R [REDACTED] L [REDACTED] proximately related to the allegations alleged herein and are reasonably certain to incur substantial medical expense in the care and treatment of J [REDACTED] R [REDACTED] L [REDACTED] in the future.

15. Plaintiffs' attorneys have consulted with a health care professional who is knowledgeable in the relevant issues involved herein and have concluded on the basis of the reviewing health care professional's review and consultation that Plaintiff has a meritorious cause of action as to defendant Kirksville Hospital and have attached an affidavit of Plaintiffs' counsel hereto pursuant to §538.225 R.S.Mo. as EXHIBIT B.

WHEREFORE, Plaintiffs, CRYSTAL DAWN LEE and ROBERT LEE, pray for judgment against the Defendant, KIRKSVILLE HOPSITAL CORPORATION, d/b/a NORTHEAST REGIONAL MEDICAL CENTER, in an amount in excess of TWENTY-FIVE THOUSAND DOLLARS (\$25,000.00), for costs of suit, and any other relief this Court deems appropriate.

J[REDACTED] R[REDACTED] L[REDACTED], a minor,
by and through his Mother and Next
Friend, CRYSTAL DAWN LEE,
and CRYSTAL DAWN LEE and
ROBERT LEE, individually,

By:



Roger K. Rea, #33074
LAW OFFICE OF ROGER K. REA
Two City Place Drive
Suite 200
St. Louis, MO 63141
314-434-2284
Fax: 314-205-9513

and

D. Jeffrey Ezra
Sarah D. Smith
Ezra & Associates, LLC
850 Vandalia, Stes. 310-320
Collinsville, IL 62234
618-346-1000
Fax: 618-346-0650

and

Jay Benson
The Benson Law Firm LLC
111 S. Baltimore
P.O. Box 219
Kirksville, MO 63501
660-627-0111
Fax: 660-627-0113
Attorneys for Plaintiffs



IN THE 2ND JUDICIAL CIRCUIT COURT, ADAIR COUNTY, MISSOURI

Judge or Division: GARY L DIAL	Case Number: 07AR-CV00080
Plaintiff/Petitioner: J [REDACTED] [REDACTED], BNF, CRYSTAL DAWN LEE, ETUX	Plaintiff's/Petitioner's Attorney/Address JOHN JAY BENSON 111 SOUTH BALTIMORE P O BOX 219 KIRKSVILLE, MO 635014623
Defendant/Respondent: RALPH BOLING, ETAL	Court Address: 106 W WASHINGTON KIRKSVILLE, MO 63501
Nature of Suit: CC Pers Injury-Malpractice	(Date File Stamp)

Summons in Civil Case

The State of Missouri to: RALPH BOLING

Alias:

800 W JEFFERSON
KIRKSVILLE, MO 63501

COURT SEAL OF



ADAIR COUNTY

You are summoned to appear before this court and to file your pleading to the petition, a copy of which is attached, and to serve a copy of your pleading upon the attorney for Plaintiff/Petitioner at the above address all within 30 days after receiving this summons, exclusive of the day of service. If you fail to file your pleading, judgment by default may be taken against you for the relief demanded in the petition.

5-16-07

Date

Linda Decker by: J. J. Martin
Clerk

Further Information:

Sheriff's or Server's Return

Note to serving officer: Summons should be returned to the court within thirty days after the date of issue.

I certify that I have served the above summons by: (check one)

- ☐ delivering a copy of the summons and a copy of the petition to the Defendant/Respondent.
- ☐ leaving a copy of the summons and a copy of the petition at the dwelling place or usual abode of the Defendant/Respondent with _____ a person of the Defendant's/Respondent's family over the age of 15 years.
- ☐ (for service on a corporation) delivering a copy of the summons and a copy of the petition to _____ (name) _____ (title).

☐ other _____

Served at _____ (address)

in _____ (County/City of St. Louis), MO, on _____ (date) at _____ (time).

Printed Name of Sheriff or Server

Signature of Sheriff or Server

Must be sworn before a notary public if not served by an authorized officer:

(Seal)

Subscribed and sworn to before me on _____ (date).

My commission expires: _____

Date

Notary Public

Sheriff's Fees, if applicable

Summons \$ _____

Non Est \$ _____

Mileage \$ _____ (____ miles @ \$. _____ per mile)

Total \$ _____

A copy of the summons and a copy of the petition must be served on each Defendant/Respondent. For methods of service on all classes of suits, see Supreme Court Rule 54.

IN THE CIRCUIT COURT
SECOND JUDICIAL CIRCUIT
COUNTY OF ADAIR, STATE OF MISSOURI

FILED

MAY 15 2007

LINDA DECKER
CIRCUIT CLERK
ADAIR COUNTY

J [REDACTED] R [REDACTED] L [REDACTED], a minor,
by and through his Mother and Next
Friend, CRYSTAL DAWN LEE,
and CRYSTAL DAWN LEE and
ROBERT LEE, individually,

Plaintiffs,

vs.

RALPH BOLING, D.O.,
KIRKSVILLE HOSPITAL
CORPORATION, d/b/a NORTHEAST
REGIONAL MEDICAL CENTER,

Defendants.

Cause No.: 07AR-CV00080

JURY TRIAL DEMANDED

ORDER APPOINTING NEXT FRIEND

THIS CAUSE comes before this Court on the Motion of J [REDACTED] R [REDACTED] L [REDACTED] a minor, for the appointment of his natural parent and guardian, Crystal Dawn Lee, as his next friend for the prosecution and defense of the above captioned lawsuit. The Court, being duly advised in the premises,

IT IS HEREBY ORDERED, that Crystal Dawn Lee is hereby appointed as the next friend of J [REDACTED] R [REDACTED] L [REDACTED] a minor, for all purposes related to the prosecution and defense of the above captioned lawsuit.

Dated this 15th day of May, 2007.

SO ORDERED: [Signature]